

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 :
 v. : **NO. 97-10,190**
 :
MICHAEL DOUGHERTY :

**OPINION IN SUPPORT OF ORDER
IN COMPLIANCE WITH RULE 1925(A)
OF THE RULES OF APPELLATE PROCEDURE**

The Defendant appeals this Court’s Opinion and Order, dated October 7, 2005, denying his motion for Post Conviction Relief. Following a jury trial held June 14th – 16th, 1999, the Defendant was found guilty of Aggravated Assault, Simple Assault, and Recklessly Endangering Another Person; the Defendant is currently serving a five (5) to twenty (20) year sentence for these convictions.

The Defendant filed a Notice of Appeal, but failed to file a brief and, the appeal was dismissed on August 3, 2000. On February 14, 2002, the Defendant’s right to file an appeal was reinstated nunc pro tunc. On June 19, 2003, the Superior Court affirmed this Court’s judgment of sentence. The Defendant filed a PCRA petition on August 11, 2003, which the Court erroneously held to be a second petition and untimely; based on this error, the Superior Court remanded the matter to this Court for appointment of counsel and the opportunity to file an amended PCRA. On August 23, 2005, the Defendant filed his Amended PCRA petition, which this court denied on December 6, 2005. The Defendant filed his current Notice of Appeal on December 13, 2005 and, following this Court’s December 14, 2005 Order, filed his Concise Statement of Matters Complained of on Appeal in accordance with Pa.R.A.P. 1925(b) on December 22, 2005.

In the Statement of Matters of Complained of on Appeal, the Defendant asserts three issues for review:

- (1) The Defendant's counsel was ineffective for failing to request that the Court recuse itself from presiding at trial;
- (2) The Defendant's counsel was ineffective for failing to appeal the sufficiency of the evidence presented at trial; and
- (3) The Defendant's counsel was ineffective for failing to object to the prosecutor's statements made in closing arguments and, counsel was ineffective for failing to raise this issue on appeal.

Relying on this Court's Opinion and Order dated October 7, 2005, the Court rejects the Defendant's assertions.

Dated: _____

By The Court,

Nancy L. Butts, Judge

cc: DA
Donald F. Martino, Esquire
File
Law Clerk